

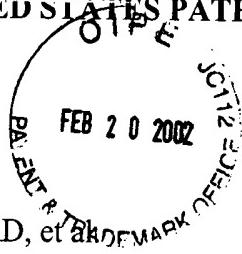
## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

H. Michael SHEPARD, et al.

Serial No.: 09/910,345

Filing Date: July 20, 2001

For: METHODS FOR IDENTIFYING  
THERAPEUTIC TARGETS FOR  
TREATING INFECTIOUS DISEASE

Group Art Unit: Unassigned

COPY OF PAPERS  
ORIGINALLY FILEDPROSECUTION BY ASSIGNEE AND POWER OF ATTORNEY  
UNDER 37 C.F.R. § 3.71Commissioner for Patents  
Washington, D.C. 20231

Sir:

NewBiotics Inc., the assignee of the entire right, title and interest in this patent application, under 37 C.F.R. § 3.71 hereby appoints:

Attorney	Registration No.	Attorney	Registration No.
David Beck	37,776	John W. Calkins	43,523
Patricia R. Coleman James	37,155	Terry Garnett	44,698
Carol M. Gruppi	37,341	Antoinette F. Konski	34,202
David W. Maher	40,077	Michael J. Shuster	41,310
William E. Thomson, Jr.	20,719	Michele Todd Wasmuth	43,239
Michael E. Woods	33,466		

all of the firm McCutchen Doyle Brown & Enersen LLP, Three Embarcadero Center, Suite 1800, San Francisco, CA 94111-4067, to prosecute this application and transact all matters in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorneys in accordance with the provisions of 37 C.F.R. § 3.71.



Please direct all written communications relative to this application to:

Antoinette F. Konski  
McCutchen Doyle Brown & Enersen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, CA 94111-4067  
Facsimile: (650) 849-4800

Please direct all telephone communications to Antoinette F. Konski at (650) 849-4950.

NewBiotics, Inc.

Dated: January 28, 2002

By: Raymond S. Poon  
Name: **Raymond S. Poon, Ph.D.**  
Title: Executive Vice President, Business  
Development & Operations  
Address: NewBiotics, Inc.  
11760 Sorrento Valley Road,  
Suite E  
San Diego, CA 92121

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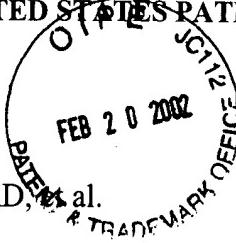
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## CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

NewBiotics, Inc., a California corporation certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

A.  An assignment from the inventors of the patent application identified above. The assignment is being filed under separate cover and a copy thereof is attached.

OR

B.  A chain of title from the inventor(s), of the patent application identified above, to the current assigned as shown below:

1. From: \* To: \*

The document was recorded in the Patent and Trademark Office at Reel \*, Frame \*, or for which a copy thereof is attached.

2. From: \* To: \*

The document was recorded in the Patent and Trademark Office at Reel \*, Frame \*, or for which a copy thereof is attached.

3. From: \* To: \*

The document was recorded in the Patent and Trademark Office at Reel \*, Frame \*, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

Copies of assignments or other documents in the chain of title are attached.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: January 28, 2002

By: Raymond S. Poon  
Name: **Raymond S. Poon, Ph.D.**  
Title: Executive Vice President, Business  
Development & Operations  
Address: NewBiotics, Inc.  
11760 Sorrento Valley Road,  
Suite E  
San Diego, CA 92121

COPYASSIGNMENT  
(JOINT)

THIS ASSIGNMENT, by **H. Michael Shepard, David B. Lackey, Brian E. Cathers and Maria V. Sergeeva** (hereinafter referred to as the assignors), residing at 1256 Quail Garden Court, Encinitas, CA 92024; 9496 Babauta Road, San Diego, CA 92129; 13041 Avenida Del General, San Diego, CA 92129 and 11338 W. San Raphael Driveway, San Diego, CA 92130, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements in **METHODS FOR IDENTIFYING THERAPEUTIC TARGETS FOR TREATING INFECTIOUS DISEASE**, set forth in an application for Letters Patent in the United States, bearing Serial No. 09/910,345, filed on July 20, 2001; and

WHEREAS, **NewBiotics, Inc.**, a corporation duly organized under and pursuant to the laws of California and having its principal place of business at **11760 Sorrento Valley Road, Suite E, San Diego, California 92121** (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application and any applications for Letters Patent which claim priority of the above-mentioned provisional application under 35 U.S.C. § 119(e), alone or in combination with 35 § U.S.C. 120 (hereinafter collectively referred to as an application for "Letters Patent") of the United States;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents does sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the joint and lawful owners of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said applications for Letters Patent and any patents to be obtained thereon, granted thereon is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns.

PATENT

AND said assignors hereby request the Commissioner for Patents to issue said applications for Letters Patent and patents granted thereon of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

Date

11/01/01

H. Michael Shepard  
Name: H. Michael Shepard

Date

11/01/01

David B. Lackey  
Name: David B. Lackey

Date

Date

Brian E. Cathers  
Name: Brian E. Cathers

Maria V. Sergeeva  
Name: Maria V. Sergeeva

Applicant	H. Michael SHEPARD, et al.	Attorney Docket No.: NB-201700
Application No.:	09/910,345	
Filing Date:	July 20, 2001	
For:	Methods for Identifying Therapeutic Targets for Treating Infectious Disease	

FEB 20 2002

**STATEMENT CLAIMING SMALL ENTITY STATUS  
SMALL BUSINESS CONCERN (37 C.F.R. §§ 1.9(f) & 1.27(c))**

I hereby state that I am:

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- the owner of the small business concern identified below;
- an official of the small business concern empowered to act on behalf of the concern identified below;

NAME OF SMALL BUSINESS CONCERN: NewBiotics, Inc.

ADDRESS OF SMALL BUSINESS CONCERN: 11760 Sorrento Valley Road, Suite E, San Diego, CA 92121

I hereby state that the above identified small business concern qualifies as a small business concern as identified in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled **Methods For Identifying Therapeutic Targets For Treating Infectious Disease**, by inventor(s) H. Michael Shepard, David B. Lackey, Brian E. Cathers and Maria V. Sergeeva, as described in:

- the specification filed herewith with title as listed above.
- the application identified above.
- the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent invention under 37 CFR § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR § 1.9(d), or a nonprofit organization under 37 CFR § 1.9(e).

Each person, concern, or organization having any rights in the invention is listed below:

- no such person, concern, or organization exists.
- each such person, concern, or organization I listed below.

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

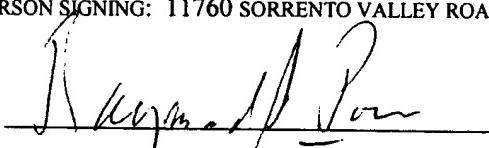
Separate statements are required from each name person, concern or organization having rights to the invention stating their status as small entities (37 CFR § 1.27).

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status of a small entity is no longer appropriate (37 CFR § 1.28(b)).

NAME OF PERSON SIGNING: RAYMOND S. POON, Ph.D.

TITLE OF PERSON IF OTHER THAN OWNER: EXECUTIVE VICE PRESIDENT

ADDRESS OF PERSON SIGNING: 11760 SORRENTO VALLEY ROAD, SUITE E, SAN DIEGO, CA 92121

SIGNATURE: 

DATE: Jan. 10, 2002